UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,324	01/19/2001	Warren J. Thomas JR.	THO580/00919	7773

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WINSTEAD SECHREST & MINICK P.C. PO BOX 50784 DALLAS, TX 75201	VAN DOREN, BETH

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	**Applicant(s)**
Office Action Summary	09/766,324	THOMAS ET AL.
	Examiner	**Art Unit**	
	Beth Van Doren	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 September 2005</u>.

2a)☐ This action is **FINAL**.　　　2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-17 and 23* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-17 and 23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application on 09/09/05. Since this application is eligible for

continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been

timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR

1.114. Applicant's submission filed on 09/09/05 has been entered.

2.   Claim 1 has been amended. Claims 1, 3-17, and 23 are now pending in this application.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 1, 3-17, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over

MassPike's Fast Lane Program (www.massturnpike.com) in view of TSD Inc. (www.tsd-

inc.com).

4.   As per claim 1, MassPike's Fast Lane Program teaches a method to attribute, reconcile,

and account for automated vehicle identification charges arising from a vehicle's usage,

irrespective of said vehicle's ownership comprising:

(a)   acquiring multiple automated vehicle identification tags containing encoded

identification data from an automated vehicle identification tag issuance authority by a host

reconciliation and accounting entity and further comprise the assignment of a subset of said

automated vehicle identification tags to at least one multiple vehicle leasing entity (See page 1, sections 1-2, page 3, page 6, sections 2-3, page 7, section 1, and page 12, section 1, which discuss acquiring multiple id tags from an issuance authority via an application, the tags identifying the account associated with each vehicle. Multiple tags are acquired and vehicle tags are assigned to a vehicle leasing entity (livery and commercial vehicles). See page 13);

(b)   physically associating each tag with a specific fleet vehicle (See page 6, sections 1 and 3, page 7, section 1, page 12, section 1, wherein each tag is associated with a vehicle);

(c)   associating a specific driver with the any vehicle of (b) (See page 12, sections 1-2, wherein commercial drivers drive vehicles associated with the tags and the vehicles are tracked in monthly statements);

(d)   digitally recording and associating information identifying said physically associated tag and fleet vehicle (See at least page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the physically associated tag is digitally associated to the account);

(e)   machine-reading the associated tag's encoded information while the vehicle of (d) is in the proximity of an automated vehicle identification tag monitoring location (See page 1, section 1, and page 3, section 1, wherein a machine reads the tag's encoded information as the vehicle passes through the toll plaza);

(f)   acquiring and storing within a database the machine-read data communicated of (d) to a host reconciliation and accounting entity from at least one multiple vehicle leasing entity (See pages 11-13, wherein the data is stored after being acquired at the monitoring location);

(g)   acquiring and storing within the database daily vehicle activity records which have been communicated to said host reconciliation and accounting entity from at least one

multiple vehicle leasing entity (See page 7, section 1, page 12, sections 1 and 2, and page 13,

wherein vehicle activity records are stored);

(h)   reconciling said acquired daily activity records and said machine-read data (See at

least page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the activity

records and the machine data are brought together);

(i)   communicating at least one credit charge billing statement resulting from said

reconciliation and accounting entity to a credit charge acceptance entity (See at least page 1,

sections 1 and 3, page 11, page 12, sections 1-2, wherein a credit charge acceptance entity

receives a credit charge);

(j)   including in the billing statement detailed information, useable for auditing and

tracking purposes, associated with the vehicle at the time of a charge occurrence (See at least

page 1, sections 1 and 3, page 11, page 12, sections 1-2, wherein a detailed billing statement is

received and contains detailed information concerning the usage of the vehicle);

(k)   receiving payment related to said communicated billing statement (See at least

page 1, sections 1 and 3, page 11, page 12, sections 1-2, wherein a payment is received).

However, while MassPike's Fast Lane Program teaches providing a detailed billing

statement including information associated with the vehicle at the time of a charge occurrence,

MassPike's Fast Lane Program does not expressly disclose that the billing statement includes at

least information relating to a specific driver associated with the vehicle.

TSD Inc. discloses car management software that manages information concerning fleet

vehicles, including tracking driver and mileage usage, the software providing both billing and

other reports (See page 2, sections 1-2, page 4, section 1, page 5, section 1, and page 8, section 1-2, wherein the software manages information concerning a driver's usage of a specific vehicle).

Both MassPike's Fast Lane Program and TSD Inc. disclose providing a detailed billing statement for a commercial vehicle for auditing and tracking purposes. It would have been obvious to one of ordinary skill in the art at the time of the invention to include information about the driver driving the vehicle at the time of the charge occurrence in order to increase the accuracy of the account by including specific tracking information that recaps what was occurring at the time of the charge, such as driver usage information. See page 4, section 1, and page 8, section 1, of TSD Inc., which discusses the tracking of a driver and the importance of accurate account information. See also MassPike's Fast Lane Program, page 12, sections 1-2, which also discusses how invaluable a detailed monthly invoice is for tracking and auditing purposes.

5.   As per claim 3, MassPike's Fast Lane Program teaches a method wherein said multiple automated vehicle identification tags are acquired by a multiple vehicle leasing entity and further comprises the communication of tags and physically associated specific fleet vehicle identification information from said multiple vehicle leasing entity to said host reconciliation and accounting entity for registration (See page 1, sections 1-2, page 3, page 6, sections 2-3, page 7, section 1, page 12, sections 1 and 2, and page 13, wherein multiple tags are acquired and vehicle tags are assigned to a vehicle leasing entity (livery and commercial vehicles). Each tag is registered with the system).

6.   As per claim 4, MassPike's Fast Lane Program teaches wherein said data is first generated from a plurality of tag monitoring locations and then communicated to said host

reconciliation and accounting entity from a data compiling entity (See page 1, sections 1-3, page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the tag information is generated at the monitoring location and then communicated in order to charge the tag account).

7.   As per claim 5, MassPike's Fast Lane Program discloses wherein said transmission of machine-read data to a host reconciliation and accounting entity includes information chosen from an information grouping including:

(a)   individualized tag identification information (See at least page 1, sections 1-3, page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the individual tag is identified);

(b)   date and time tag charge occurrence (See at least page 1, sections 1-3, page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the charge occurrence information is identified);

(c)   monitoring station tag cost assessment (See at least page 1, sections 1-3, page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the monitoring station charge is identified); and

(d)   adjustment to monitoring station tag cost assessment (See at least page 1, sections 1-3, page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the tag account is adjusted based on the cost assessment).

8.   As per claim 6, MassPike's Fast Lane Program teaches a method wherein said acquiring of daily vehicle activity records for vehicles to which said tags have become associated includes records comprising:

(a)   date and time periods each vehicle was utilized (See page 12, sections 1-2,

wherein the date and time periods a vehicle was used is known); and

(b)   commercial drivers driving said vehicle associated with the tags, tracking each

vehicle using the monthly statements (See page 12, sections 1-2, wherein commercial drivers

drive vehicles associated with the tags and the vehicles are tracked in monthly statements).

However, where MassPike's Fast Lane Program discloses activity records of the vehicles

driven by drivers of a commercial fleet and drivers associated with accounts of fleets,

MassPike's Fast Lane Program does not expressly disclose driver identification for each period

of vehicle utilization.

TSD Inc. discloses management of fleet vehicles, including tracking specific driver and

mileage usage (See page 2, sections 1-2, page 4, section 1, page 5, section 1, and page 8, section

1-2, wherein the software manages information of a driver's usage of a specific vehicle).

Both MassPike's Fast Lane Program and TSD Inc. disclose providing a detailed billing

statement for a commercial vehicle for auditing and tracking purposes. MassPike's Fast Lane

Program discloses a system for commercial vehicles that tracks monthly usage of vehicles with

the electronic tags. MassPike's Fast Lane Program also discloses drivers being signed up with

the system associated with the tag account. It is well known that a commercial vehicle operation

maintains a schedule of drivers that are working on specific days. Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to associate a specific tag of

the commercial vehicle of MassPike's Fast Lane Program with a specific driver in order to

increase the accuracy of the account by including specific tracking information that recaps what

was occurring at the time of the charge, such as driver usage information. See page 4, section 1,

and page 8, section 1, of TSD Inc., which discusses the tracking of a driver and the importance of

accurate account information. See also MassPike's Fast Lane Program, page 12, sections 1-2,

which also discusses how invaluable a detailed monthly invoice is for tracking and auditing

purposes.

9.   As per claim 7, MassPike's Fast Lane Program teaches a method wherein driver account

information further comprises:

    (a) a driver's name (See page 9, which discloses a name);

    (b) a driver's address (See page 9, which discloses an address);

    (c) a driver's telephone number (See page 9, which discloses a telephone number);

    (d) a driver's credit card name, number and expiration date information (See page 9,

which discloses credit card information); and

    MassPike's Fast Lane Program teaches commercial accounts for a fleet of vehicles driven

by drivers (See page 12, sections 1-2).

    However, where MassPike's Fast Lane Program discloses activity records of the vehicles

driven by drivers of a commercial fleet and drivers associated with accounts of fleets,

MassPike's Fast Lane Program does not expressly disclose driver identification for each period

of vehicle utilization.

    TSD Inc. discloses management of fleet vehicles, including tracking specific driver and

mileage usage (See page 2, sections 1-2, page 4, section 1, page 5, section 1, and page 8, section

1-2, wherein the software manages data concerning a driver's usage of a specific vehicle).

    Both MassPike's Fast Lane Program and TSD Inc. disclose providing a detailed billing

statement for a commercial vehicle for auditing and tracking purposes. MassPike's Fast Lane

Program discloses a system for commercial vehicles that tracks monthly usage of vehicles with

the electronic tags. MassPike's Fast Lane Program also discloses drivers being signed up with

the system associated with the tag account. It is well known that a commercial vehicle operation

maintains a schedule of drivers that are working on specific days. Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to associate a specific tag of

the commercial vehicle of MassPike's Fast Lane Program with a specific driver in order to

increase the accuracy of the account by including specific tracking information that recaps what

was occurring at the time of the charge, such as driver usage information. See page 4, section 1,

and page 8, section 1, of TSD Inc., which discusses the tracking of a driver and the importance of

accurate account information. See also MassPike's Fast Lane Program, page 12, sections 1-2,

which also discusses how invaluable a detailed monthly invoice is for tracking and auditing

purposes.

10.   As per claim 8, MassPike's Fast Lane Program discloses wherein said credit charge

acceptance entity is an individual responsible for payment of charges relating to said credit

charge information (See page 1, sections 2-3, page 6, sections 3-4, page 9, page 11, and page 12,

sections 1-2, wherein an individual is associated with the credit charge information and the

associated credit card).

11.   As per claim 9, teaches a method wherein said credit charge acceptance entity is a

business entity responsible for payment of charges relating to said credit card information (See at

least page 1, sections 2-3, page 6, sections 3-4, page 9, page 11, and page 12, sections 1-2,

wherein the entity is a business entity, such as with commercial vehicles, taxis, livery, etc.).

12.   As per claim 10, MassPike's Fast Lane Program teaches a method wherein communicating said credit charge information resulting from said reconciliation and accounting entity to a credit charge acceptance entity, further comprises:

(a) communicating the name of a vehicle account holder for a specific time and date (See page 1, sections 1-2, page 3, page 6, sections 2-3, page 7, section 1, and page 12, section 1, wherein the account holder is communicated);

(b) communicating tag usage charges for said time and date (See page 1, sections 1-2, page 3, page 6, sections 2-3, page 7, section 1, and page 12, section 1, wherein the tag usage charges are communicated); and

(c) communicating said account holder's credit card name, number, billing address and expiration date (See page 1, sections 1-2, page 3, page 6, sections 2-3, page 7, section 1, page 9, and page 12, section 1, wherein the account has a credit card name, number, billing address and expiration date).

However, where MassPike's Fast Lane Program discloses activity records of the vehicles driven by driver's of a commercial fleet, account holders associated with the vehicle, and drivers associated with accounts, MassPike's Fast Lane Program does not expressly disclose driver identification for each period of vehicle utilization.

TSD Inc. discloses management of fleet vehicles, including tracking specific driver and mileage usage (See page 2, sections 1-2, page 4, section 1, page 5, section 1, and page 8, section 1-2, wherein the software manages information concerning a driver's usage of a specific vehicle).

Both MassPike's Fast Lane Program and TSD Inc. disclose providing a detailed billing

statement for a commercial vehicle for auditing and tracking purposes. MassPike's Fast Lane

Program discloses a system for commercial vehicles that tracks monthly usage of vehicles with

the electronic tags. MassPike's Fast Lane Program also discloses drivers being signed up with

the system associated with the tag account. It is well known that a commercial vehicle operation

maintains a schedule of drivers that are working on specific days. Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to associate a specific tag of

the commercial vehicle of MassPike's Fast Lane Program with a specific driver in order to

increase the accuracy of the account by including specific tracking information that recaps what

was occurring at the time of the charge, such as driver usage information. See page 4, section 1,

and page 8, section 1, of TSD Inc., which discusses the tracking of a driver and the importance of

accurate account information. See also MassPike's Fast Lane Program, page 12, sections 1-2,

which also discusses how invaluable a detailed monthly invoice is for tracking and auditing

purposes.

13.   As per claim 11, MassPike's Fast Lane Program discloses a method wherein said

acquiring of said machine-read data and said daily activity records is facilitated via a computer

compatible communications network (See pages 1, section 1, page 12, and page 13, which

discloses a computer compatible communications network).

14.   As per claim 12, MassPike's Fast Lane Program teaches wherein said communicating of

credit charge information is facilitated via a computer compatible communications network (See

at least page 1, sections 2-3, page 6, sections 3-4, page 9, page 11, page 12, sections 1-2, and

page 13, which discloses a computer compatible network).

15.   As per claim 13, MassPike's Fast Lane Program teaches a method further comprising:

(a) communicating vehicle identification information describing vehicles with which said

tags have become physically associated from said reconciliation and accounting entity to a tag

issuance authority (See at least page 6, sections 1-3, pages 9-10, and page 12, sections 1-2,

wherein the vehicle identification associated with the tag is communicated);

(b) communicating lost or stolen associated tags from said reconciliation and accounting

entity to a tag issuance authority (See at least page 1, sections 2-3, and page 10, section f,

wherein lost or stolen tags are reported),

(c) deactivating said communicated lost or stolen tags (See at least page 10, section f,

wherein the tag is deactivated after notification).

16.   As per claim 14, MassPike's Fast Lane Program discloses a method further comprising:

(a) communicating a billing statement from a tag issuance authority to said reconciliation

and accounting entity (See at least page 1, sections 1-3, page 11, and page 12, sections 1-2,

wherein the billing statement is issued to a reconciliation/accounting entity),

(b) reconciling said communicated billing statement with tags issued to said

reconciliation and accounting entity (See at least page 1, sections 1-3, page 11, and page 12,

sections 1-2, wherein the bill is reconciled);

(c) communicating payment relating to said billing statement from said reconciliation and

accounting entity to said tag issuance authority (See at least page 1, sections 1-3, page 11, and

page 12, sections 1-2, wherein payment is made).

17.   As per claim 15, MassPike's Fast Lane Program teaches further including the calculation

and addition of a processing surcharge fee to said reconciled daily activity records and machine

read data (See at least page 10, which discusses a 1% surcharge fee).

18.   As per claim 16, MassPike's Fast Lane Program teaches wherein communicating said

credit charge information further comprises communicating a rebate credit to said credit charge

acceptance entity (See page 1, section 2, wherein a refund occurs).

19.   As per claim 17, MassPike's Fast Lane Program discloses a method further comprising

the transmission of accrued vehicle toll charges from said host reconciliation and accounting

authority to said multiple vehicle leasing entity (See at least page 12, sections 1-2, wherein the

toll charges are transmitted to the multiple vehicle leasing entity).

20.   As per claim 23, MassPike's Fast Lane Program teaches the communication of advisory

information from said host reconciliation and accounting entity to said credit charge acceptance

entity (See page 1, sections 2-3, and pages 8, 10-11, wherein advisory information about a low or

no balancing requiring debiting is communicated).

Response to Arguments

21.   Applicant's arguments with respect to claims 1, 3-17, and 23 have been considered but

are moot in view of the new grounds of rejection, as necessitated by amendment.

22.   Examiner points out that Applicant has not raised any new arguments concerning the

MassPike's Fast Lane Program reference in the current communications.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Warkentin (U.S. 2002/0035421) discloses tracking a driver of a fleet vehicle and compiling data on an entire fleet to generate a report.

Slavin et al. (U.S. 5,819,234) discloses a toll system using transponders and monitoring the usage of the toll value pre-authorized for a user.

Shah et al. (U.S. 6,026,345) discloses an account module that tracks a driver and charges a driver of a fleet unit a charge caused by the driver.

Prabhakaran (U.S. 5,922,040) discloses a fleet management system that tracks the usage of fleet vehicles and stores historic usage data.

Strong (U.S. 6,006,148) discloses automatically tracking a commercial vehicle during its rental and billing the driver for the vehicle's usage.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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November 16, 2005

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